

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

KELLI BAUGH and JUSTIN BAUGH,)	
Plaintiffs)	Case No. 4:11-cv-00525-RBH
)	
v.)	
BAYER CORPORATION, BAYER)	
HEALTHCARE, LLC, BAYER)	
PHARMACEUTICALS, CORPORATION,)	
BAYER HEALTHCARE)	
PHARMACEUTICALS, INC., BERLEX)	
LAORATORIES, INC., and BERLEX, INC.,)	
Defendants.)	
_____)	

SIXTH CONSENT AMENDED SCHEDULING ORDER

Pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules of this Court, the following modified schedule is established for this case due to Defendant's representation of the extraordinary impact of Hurricane Sandy on the Defendant's principle offices located in New Jersey:

FACT DISCOVERY

1. Fact discovery shall be completed no later than **February 15, 2013**. All discovery requests shall be served in time for the responses thereto to be served by this date. De bene esse depositions must be completed by the discovery deadline. **No motions relating to discovery shall be filed until counsel have consulted and attempted to resolve the matter as required by Local Civil Rule 7.02, and have had a telephone conference with Judge Harwell in an attempt to resolve the matter informally.**

EXPERT WITNESSES

2. Plaintiff(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Plaintiff(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert pursuant to Fed. R. Civ. P. 26(a)(2)(B) or, where allowed, a report prepared by counsel* has been disclosed to other parties by **February 15, 2013**. * **NOTE: Amendments effective December 1, 2010, impose new disclosure requirements for certain expert witnesses.**

3. Defendant(s) shall file and serve a document identifying by full name, address, and telephone number each person whom Defendant(s) expects to call as an expert at trial and certifying that a written report prepared and signed by the expert pursuant to Fed. R. Civ.P. 26(a)(2)(B) or, where allowed, a report prepared by counsel* has been disclosed to other parties by **March 15, 2013**. ***NOTE: Amendments effective December 1, 2010, impose new disclosure requirements for certain expert witnesses.**

4. Counsel shall file and serve affidavits of records custodian witnesses proposed to be presented by affidavit at trial no later than **February 15, 2013**. Objections to such affidavits must be made within fourteen (14) after the service of the disclosure. *See* Fed. R. Evid. 803(6), 902(11), or 902(12) and Local Civil Rule 16.02(D)(3).

5. All dispositive motions, Daubert motions, and all other motions, except those to complete discovery, those nonwaivable motions made pursuant to Fed. R. Civ. P. 12, and those relating to the admissibility of evidence at trial (other than Daubert motions), shall be filed on or before **April 15, 2013**. *See* below ¶ 12 for motions in limine deadline.

6. Mediation, pursuant to Local Civil Rules 16.04 – 16.12, shall be completed in this case

on or before **March 22, 2013**. *See* Standing Order to Conduct Mediation, which sets forth mediation requirements and is found on the court's website under Judge Harwell's forms (<http://www.scd.uscourts.gov>). At least **thirty (30) days prior to this mediation deadline**, counsel for each party shall file and serve a statement certifying that counsel has: (1) provided the party with a copy of Standing Order to Conduct Mediation; (2) discussed the availability of mediation with the party; and (3) discussed the advisability and timing of mediation with opposing counsel.

7. No later than **April 15, 2013** the parties shall file and exchange Fed. R. Civ. P. 26(a)(3) pretrial disclosures. Within fourteen (14) days thereafter, a party shall file and exchange Fed. R. Civ. P. 26(a)(3) objections, any objections to use of a deposition designated by another party and any deposition counter-designations under Fed. R. Civ. P. 32(a)(6). *See* Local Civil Rule 30.03(J) (video deposition additional requirements).

8. Motions in limine must be filed at least three weeks prior to **May 6, 2013**.

9. Parties shall furnish the Court pretrial briefs seven (7) days prior to the date set for jury selection (Local Civil Rule 26.05).¹ Attorneys shall meet at least seven (7) days prior to the date set for submission of pretrial briefs for the purpose of exchanging and marking all exhibits. *See* Local Civil Rule 26.07. (Attorneys are reminded to view the Court's instructions online regarding verdict forms, jury instructions, deposition designations, etc. that may be applicable to their case.)

10. This case is subject to being called for jury selection and/or trial on or after **May 6, 2013**.

11. These amendments shall not affect Defendants' obligation to continue production of documents on a rolling basis as agreed in the status conference with the Court on August 22,

2012. Nor shall these amendments affect Defendants' obligation to produce responses to Plaintiff's Requests to Admit numbers 1, 2, 3, 4, 6, and 7 by January 15, 2013 as ordered by the Court on September 17, 2012.

The parties' attention is specifically directed to Local Rule 5.03 regarding the filing of confidential material. The parties' attention is also directed to the Court's website regarding instructions or other orders that may be applicable to your case.

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

November 8, 2012
Florence, South Carolina

s/ Carmen S. Scott
Carmen S. Scott, Fed. ID No. 7513
Fred Thompson, III, Fed. ID No. 4081
MOTLEY RICE, LLC
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
cscott@motleyrice.com
(843) 216 - 9000

J. Thomas McBratney, III, Fed. ID No. 10517
McBratney Law Firm, P.A.
P.O. Box 3890
Florence, SC 29502
(843) 662 – 8155
Tm.mcbratneylawfirm@gmail.com

Attorneys for the Plaintiffs

s/ Celeste T. Jones
Celeste T. Jones, Fed. ID No. 2225
Andrew G. Melling, Fed. ID No. 7882
McNAIR LAW FIRM, P.A.
1221 Main Street (29201)
P. O. Box 11390 (29211)
Columbia, South Carolina
(803) 799-9800
(803) 753-3278 (facsimile)
cjones@mcnair.net
amelling@mcnair.net

Attorneys for the Defendants

¹ Judge Harwell requires that pretrial briefs information found in LCR 26.05 (A) – (M) be submitted only to the Judge's chambers; however, pretrial brief information contained in LCR 26.05 (N)-(O) shall be served on opposing parties.